

# A COMPILATION OF TOWN PLANNING LEGISLATION

Province of Ontario.

BY

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## IMPORTANT ERRATA

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### THE PLANNING AND DEVELOPMENT ACT:

Page 2—First Column.

Section B should read Section 13.

### THE MUNICIPAL ACT:

Page 4—First Column.

Under Section 409 (2) add Factories.

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Planning Institute of Canada. Ontario Land Surveyor.**

At the recent Ontario Town Planning and Housing Conference, held on October 31st, and November 1st, 1921, in Toronto, the status of Town Planning in Ontario was discussed at some length and reference was made to existing legislation in Ontario.

The fact was mentioned that legislation dealing with town planning was scattered through various Provincial Acts or amendments to Acts. The consensus of opinion was that most municipalities, were therefore, not familiar with their town planning powers.

In his engineering and official surveying work, and especially in relation to town planning work, the writer has found it convenient to make a compilation, as set out hereunder, of Ontario legislation that deals with town planning matters. It must be fully understood, of course, that this compilation is not official and that it is not necessarily complete, but represents merely the writer's effort to get together material so that Ontario town planning legislation can be comprehensively reviewed and compared with that of other provinces and other countries.

It is hoped that any corrections, additions or alterations will be submitted to the writer as soon as noted. In some instances it will be found that the actual section referred to has been quoted in full; in other cases the endeavor has been to condense and give what appeals to the writer as the actual meaning rather than the full section, a cursory reading of which might not reveal the full effect of such section.

Particular attention is directed to various sections of the Municipal Act and to the "permanent zoning" powers granted to certain municipal councils under section 399a, recently enacted. Housing legislation is briefly referred to but powers granted under special or private Acts are not dealt with in the compilation, which

includes sections from the following Acts:

- Planning and Development Act
- Municipal Act
- Health Act
- Surveys Act
- Registry Act
- Land Titles Act
- Local Improvement Act
- Housing Accommodation Act
- Ontario Housing Act
- Municipal Housing Act.

Reference.—The following is a digest of "town planning" legislation for the Province of Ontario, as in force 1921, and includes amendments enacted at the spring session (1921) of the Provincial Parliament.

## THE PLANNING AND DEVELOPMENT ACT OF 1918 AND SUBSEQUENT AMENDMENTS PROVIDE INTER ALIA:

### Section 6, (1), (2).

**Approval of plans of survey and subdivision before registration.**—Within a city, town or village no plan of survey and subdivision of land shall be registered unless it has been approved by the Council of such city, town or village or by the Ontario Railway and Municipal Board.

Within an urban zone, which may be described briefly as the area within five miles of a city or three miles of a town or village, no plan of survey and subdivision of land shall be registered unless it has been approved by the Council of each Municipality, within which any part of such land is situate, and by the Council of any city, town or village, which such urban zone or joint urban zone adjoins or by the Ontario Railway Board and Municipal Board.

### \*Section 5, (1) (2)

**General plan of Municipal and Urban zones.**—The Council of a city, town or village may procure to be made for adoption by it a general plan of such city, town or village, and the urban zone adjoining it; or

of such portion of the same as such Council may deem expedient.

**What plan to show.**—Such plan shall show all existing highways and any widening, extension or relocation of the same which may be deemed advisable, and also all proposed highways, parkways, boulevards, parks, playgrounds and other public grounds or public improvements and shall be certified by an Ontario land surveyor.

[\*NOTE—The approval of plans of survey and subdivision for registration under Section 6 can only be done intelligently when advantage of Section 5 is taken and a general plan of the municipality and suburbs prepared.]

Reference—Section B, (1) to (9).

**Construction of town planning commissions.**—The Council of a city, town or village may appoint a Commission, to be known as "The Town Planning Commission" of the city, town or village (as the case may be).

**How composed.**—Such commission shall be a body corporate and shall consist of the head of the municipality and six persons, being ratepayers appointed by the Council.

**Term of office of members.**—The members of such commission, except the head of the municipality, shall hold office for three years, or until their successors have been appointed; provided that on the first appointment of the members of such commission the council shall designate two of such members who shall hold office for one year, two shall hold office for two years, and two shall hold office for three years.

Any member of the commission shall be eligible for reappointment.

**Powers.**—The commission of any city, town or village, upon its appointment, shall have and exercise all the powers and discharge all the duties by this Act, vested in and exercisable by the council of such city, town or village.

**Chairman.**—The commission shall elect a chairman who shall preside at all meetings of the commission.

**Quorum.**—Four of the members of the commission present at any meeting shall constitute a quorum.

**Duties of municipal officers.**—The clerk, engineer and other officers of the city, town or village shall, at the request of the commission, do and perform all such duties under this Act, as they, or any of them, would do and perform for the council of such city, town or village in the like case, if such commission had not been appointed.

**Estimates of Expenditure.**—The Commission shall, on or before the first of March, submit to the council estimates of its expenditures for the current year, and the council may cut down and reduce such estimates as may be deemed proper.

The above sections cover some of the important provisions of the Planning and Development Act.

## REFERENCE—THE MUNICIPAL ACT PROVIDES:

### Section 250

#### General power to make regulations.

—Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act, as may be deemed expedient and are not contrary to law.

### Section 322

**Power to acquire or expropriate land.**—The council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting buildings thereon, and may sell or otherwise dispose of the same when no longer so required.

**Taking more land than required.**—when in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

**Land to be described in by-law, etc.**—A by-law for entering on or expropriating land shall contain a description of the land, and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated.

This section was amended in 1921, so that in the case of opening, widening, extending or straightening of a highway, cheap land adjoining the rear of a property affected may be acquired by the municipality and deeded to the owner affected.\*

[\*NOTE—This may result in avoiding the buying of high-priced property on the highway as the owner directly affected would require a frontage and area of land equal in amount to that which he originally held and should

have little, if any, claim for compensation.]

#### **Reference—Section 398 (32)**

By-laws must be passed by the councils of all municipalities.

**Acquiring lands for parks.**—For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality, and where there is no Board of Park Management for exercising all or any of the powers which are by The Public Parks Act conferred on Board of Park Management.

#### **Section 399**

By-laws may be passed by the councils of cities, town and villages townships:

(41) **Gas works, distilleries, etc.**—For prohibiting or regulating the erection or continuance of gas works, tanneries, or distilleries or other manufacturies or trades which in the opinion of the council may prove to be or may cause nuisances.

(57) **Posters**—For prohibiting or regulating the erection of signs or other advertising devices, and the posting of notices on buildings or vacant lots.

#### **Section 399a**

By-laws may be passed by the councils of cities, towns and villages and of townships abutting on an urban municipality:

Establishing restricted districts or zones.

1. For prohibiting the use of land or the erection or use of buildings within any defined area or areas or abutting on any defined highway or part of a highway for any other purpose than that of a detached private residence.

2. For regulating the height, bulk, location, spacing and character of buildings to be erected or altered within any defined area or areas or abutting on any defined highway or part of a highway and the proportion of the area of the lot which such buildings may occupy.

(a) No by-laws passed under this section shall apply to any land or building, which on the day the by-law is passed, is erected or used for any purpose prohibited by the by-law so long as it continues to be used for that purpose; nor shall it apply to any building the plans for which have been approved by the city architect prior to the date of the passing of the by-law, so long as when

erected it is used for the purpose for which it was erected.

(b) No by-law passed under this section shall come into force or be repealed or amended without the approval of the municipal board; but such approval may be given as to the whole or any part of an area or highway effected, if it is shown to the satisfaction of the board that it is proper and expedient in view of:

(i) The purpose for which the original by-law was passed and the nature and class of occupancy and use of the land within the area or abutting on the highway at the time the by-law was passed.

(ii) Any change which may since have taken place affecting its suitability for such occupancy or use; and

(iii) The desirability of the proposed repeal or amendment in the interests of the owners of the land in the district affected and of the community as a whole.

#### **Section 400**

By-laws may be passed by the councils of cities, towns and villages

(4) **Size and strength of walls etc., and production of plans.**—For regulating the size and strength of brick, stone, cement and concrete walls and of the beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired and for requiring the production of the plans of all buildings and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees.\*

[\*NOTE—Under this and other sections authority is given for the preparation of building by-laws or codes.]

(16) (17) etc. **Erection of buildings, etc.**—For regulating the construction, alteration or repairs of buildings, etc., in connection with the prevention of fires.

(38) **Marking the boundaries of and naming streets, etc.**—To provide for surveying, settling and marking the boundary lines of highways and giving names to them or changing their names, and for affixing the names at the corners thereof, on public or private property.

(47) **Location of stables, garages, etc.**—For regulating the location, erection, and use of stables, garages, barns, outhouses and manure pits.

#### **Section 406 (10)**

By-laws may be passed by the councils of cities and towns on a two-

thirds vote of all the members of the council:

**Setting apart residential streets. Fixing building line.**—For declaring any highway or part of a highway to be a residential street, and for prescribing the distance from the line of the street in front of it at which no building on a residential street may be erected or placed.

(a) It shall not be necessary that the distance shall be the same on all parts of the same street.

#### **Section 409 (2-2a-2b-2c-2d-2e-2f)**

By-laws may be passed by the Councils of cities on a two-thirds vote of all the members of the Council:

For regulating and controlling the location, erection and use of buildings for purposes noted hereunder and for prohibiting the erection or use of buildings for all or any or either of such purposes within any defined area or areas or on land abutting on any defined highway or part of a highway:

(2) Livery, boarding or sales stables and stables in which horses are kept for hire or keep, for use with vehicles in conveying passengers or for express purposes and stables for horses for delivery purposes. Laundries, butcher shops, stores, blacksmith shops, forges, dog kennels, hospitals or infirmaries for horses, dogs or other animals.

(2a) Plumber shops, machine shops, tinsmith shops. Moving pictures or other theatres. Buildings used for storage of builders' plant.

(2b) Private Hospitals. Public dance halls (see section 2b for definition of same). Undertakers' establishments.

(2c) Warehouses. Gasoline and oil filling stations.

(2f) Tents, awning or other similar coverings for business purposes. Buildings for the housing of motor trucks or apparatus used in any truck cartage business.

(2d) For prohibiting the sale of goods, wares, and merchandise on any private lands within any defined area or areas, or on lands abutting on any defined highways or part of a highway, to which any by-law passed under paragraphs 2, 2a or 2b of this section applies.

(2c) Provides for the extension

and enlargement of existing buildings not conforming in use to by-law at time of its passage.

#### **Section 410 (1)**

By-laws may be passed by the councils of cities having a population of not less than 100,000, and as amended in 1919 by the councils of cities and towns having a population of not less than 5,000, and as amended in 1920 by the councils of townships bordering on a city having a population of not less than 100,000:

**Location of apartment houses and garages.**—For prohibiting or for regulating and controlling the location or erection within any defined area or areas or on land abutting on defined highways or parts of highways of apartment or tenement houses and of garages to be used for hire or gain.

(a) For the purpose of this paragraph an apartment or tenement house shall mean a building proposed to be erected or altered for the purpose of providing three or more separate suites or sets of rooms for separate occupation by one or more persons.

#### **Section 410a**

By-laws may be passed by the Councils of Townships bordering on a city having a population of not less than 100,000.

1. For prescribing the distance from the line of street in front of it at which no building shall be erected or placed.

(a) The by-law shall apply only to streets which are less than 66 feet in width, and it shall not be necessary that the distance shall be the same on all parts of the same street.

2. For requiring that in connection with all buildings hereafter erected and used solely as residences, there shall be a passage-way at one side thereof at least two feet in width from front to three feet in rear of such building.

#### **Section 472 (1)**

The Council of every municipality may pass by-laws:

**Establishing, widening, stopping up, etc., highways, laying out boulevards, etc.**—(a) For establishing and laying out highways;

(b) For widening, altering or di-

verting any highway or part of a highway;

(c) For stopping up any highway or part of a highway and for leasing or selling the soil and freehold of a stopped up highway or part of a highway;

(d) For setting apart and laying out such parts as may be deemed expedient of any highway for the purpose of carriage ways, boulevards and sidewalks, and for beautifying the same, and making regulations for their protection;

(e) For permitting subways for cattle under and bridges for cattle over any highway.

**Subsections (2) &c.**—Subsections 2 &c. of Section 472 recite certain exceptions to the above.

#### **Section 479 (1), (2)**

**Sanction of council to laying out of highways.**—No highway shall be laid out in any municipality without the sanction of the council of the municipality.

**Width of highways.**—No highway less than 66 feet in width or except in a city or town more than 100 feet in width, shall be laid out by the council of the municipality without the approval of the Municipal Board or by any owner of land without the approval of the council of the municipality and of the Municipal Board. Section 6 (3) of the Planning and Development Act reads:

No plan of survey and subdivision of land abutting on a highway of a less width than 66 feet, or upon which there is laid out a street of a less width than 66 feet shall be registered unless it has been approved by the proper municipal council or councils and by the Ontario Railway and Municipal Board.

#### **Section 480**

**Dwelling houses on narrow streets.**—The council of any city, town or village may pass by-laws for regulating the erection or occupation of dwelling houses on narrow streets, lanes or alleys or in crowded or insanitary districts.

#### **Section 481 (1)**

**Power to regulate and prohibit erecting of dwelling houses.**—The council of a city having a popula-

tion of not less than 50,000 may pass by-laws for:

Prohibiting the erection or occupation of dwelling houses on highways, lanes or alleys of less width than that prescribed by-law:

Prescribing the minimum area of vacant land which shall be attached to and used with any dwelling houses thereafter erected, as the courtyard or curtilage of it;

Regulating the manner in which buildings intended to be occupied as dwelling houses are to be constructed within the municipality or within any defined area of it:

Prohibiting the erection of dwelling houses or the alteration of other buildings for the purpose of adapting them for use as dwelling houses, if the same front on a highway less than 40 feet in width, unless the street has been established as a highway by by-law of the council or otherwise assumed for public use by the corporation.

#### **THE PUBLIC HEALTH ACT PROVIDES**

The Provincial Board, with the approval of the Lieutenant Governor in Council, may make such regulations as may be deemed necessary for:

#### **Section 8 (j)**

**Preventing over-crowding.**—Preventing the overcrowding of premises used for human habitation by limiting the numbers of dwellers in such premises and the amount of air space to be allowed for each dweller therein. (See also Section 86).

#### **Section 84 (1)**

**Restriction on establishment of offensive trades.**—Any person who without the consent of the local board or of the municipal council establishes any of the following trades or businesses or manufactures

- Blood boiling
- Bone boiling
- Refining coal oil
- Extracting oil from fish
- Storing hides
- Soap boiling
- Tallow melting
- Tripe boiling
- Slaughtering animals
- Tanning hides or skins
- Manufacturing glue
- Manufacturing gas

Fertilizers from dead animals, from human or animal waste, or

Any other trade, business or manufacture which is or may become offensive, or which is by the regulations declared to be a noxious or offensive trade, business or manufacture, shall incur a penalty, for details of which see section 84 (1). (See also Section 85).

#### Section 29 (1)

**Plans to be submitted to Provincial Board.**—Whenever the council of any municipality or any municipal board or commission or any company or person contemplates the establishment of, or the extension of, or any change in an existing waterworks system, they shall submit the plans, specifications, and an engineer's report of the water supply and the works to be undertaken, together with such other information as may be deemed necessary to the Provincial Board, and no such works shall be undertaken or proceeded with until the source of supply and the proposed works have been approved by the Board.

#### Section 94 (1)

**Sewerage system, plans to be submitted.**—Whenever the construction of a common sewer or of a system of sewerage, or an extension of the same, is contemplated by the council of any municipality, the council shall first submit the plans and specifications of the work together with such other information as may be deemed necessary by the Provincial Board for its approval.

#### THE SURVEYS ACT, 1920, PROVIDES:

##### Section 17

The council of any township, city, town or village on its own motion or by resolution on application of one-half affected, resident land owners may cause a "municipal survey" to be made and monuments placed under legal authority.

In many instances such a survey is necessary to define disputed ownerships of properties surveyed years ago. The official definition of street or lot lines by such a "municipal survey" is also of value in the preparation of a "town plan." \*

[\*NOTE—In order to avoid possible misunderstanding it should be stated that the sections in the Surveys Act, Registry Act, etc., relating to surveys

and plans were probably not enacted to aid in town planning although the writer believes some advantage should be taken of them for such purpose.]

#### THE REGISTRY ACT PROVIDES:

##### Sections 28 (5) and 30

Under proper authorization new surveys and plans may be made of areas where such surveys have become necessary.

##### Section 88

A plan for registration of any city, town, village or unincorporated area comprising different subdivisions must be made by the Municipal Council concerned on the written request of any person interested.

##### Section 81

What a registered plan of subdivision is to show, approval of the subdivisions by the proper Municipal Council or other authority being required.

#### THE LAND TITLE ACT PROVIDES:

##### Section 105

What a registered plan of subdivision is to show

##### Section 109

Plan of subdivision (and if streets less than 66 feet wide) not to be registered without approval of the proper municipal council or other authority.

#### THE LOCAL IMPROVEMENT ACT PROVIDES BY 1921 AMENDMENTS:

##### Section 18b

To more readily than heretofore provide for some deviation in the establishing, extending, widening or diverting of highway after the original by-law for that purpose has been passed.

##### Section 27a

In connection with the above to grant to an owner reduced assessment by way of compensation for gifts of land. In the past if an owner deeded to the municipality the land required for the widening of a street he still had to pay a proportion of the cost of other lands that had to be bought by the municipality for the purpose of widening. This apparent injustice is now removed.

An act to encourage housing ac-



commodation in Cities and Towns, (1913), termed

### THE HOUSING ACCOMMODATION ACT PROVIDES:

A company incorporated under The Ontario Companies Act with a share capital whose main purposes of incorporation are the acquisition of lands in or near a city or town in Ontario, and the building and making thereon of dwelling houses of moderate size and improvements and conveniences, to be rented at moderate rents, may petition the council of such city or town to guarantee its securities, to enable or assist it to raise money to carry out such main purposes.

The Ontario Housing Act, 1919, includes the following preamble:

Whereas the government of the Dominion of Canada has made provision for lending money for twenty years with interest at the rate of 5 per cent per annum to the Provinces of Canada for the purpose of promoting the erection of dwelling houses; and whereas the Province of Ontario desires to borrow from the Dominion of Canada a portion of the fund for the purpose of lending the same to municipal corporations to promote the erection of dwelling houses throughout Ontario; and whereas the Province of Ontario also desires to borrow from any person such further sums as may be deemed necessary for the purposes of this Act.

The Municipal Housing Act, 1920 similar in many respects to the Ontario Housing Act, 1919, does not make provision for loans from the Dominion of Canada, but Section 4 (3) provides:

The Lieutenant-Governor in Council may authorize the Treasurer of Ontario for and on behalf of the province to guarantee the payment of the debentures issued by the municipal corporation.

The reader's attention might also be directed to the following Acts:

The Public Parks Act, The Cemetery Act, and as recently enacted in 1919 and subsequent amendments, the Community Halls Act.

While the preceding digest was compiled primarily for the writer's own use, it is, upon publication, no doubt, open to the criticism that there has been no attempt to classify the legislation in regard to town planning, except as it appears in the Acts.

A comprehensive classification of the town planning powers, according to the various phases of town planning dealt with, might require some little study. There is at present, however, considerable interest evidenced in what is termed "zoning" or restrictions on the use of private property in regard to building use and development. It might be mentioned, therefore, that zoning powers are outlined in the following Acts and sections previously mentioned:

The Municipal Act;	The Public Health Act
399 (41) (57)	8 (j)
399 (a)	84 (1)
400 (47)	
406 (10)	
409	
410 (a)	
410 (1)	
480	
481 (1)	

